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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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WEEK IN REVIEW

HOUSE

The House of Representatives amended and approved H.3933. This bill includes revisions to current law regarding **BEGINNER'S PERMITS, PROVISIONAL LICENSES, SPECIAL RESTRICTED DRIVER'S LICENSES, AND DRIVER'S TRAINING**. The bill provides that a beginner's permit is valid in the operation of vehicles between six a.m. and midnight, rather than "during the daylight hours," as is currently provided. The bill provides that a beginner's permit is valid in the operation of certain scooters and cycles between six a.m. and six p.m., except that beginning on the day that daylight savings time goes into effect through the day that daylight saving time ends, the permittee may operate these certain scooters and cycles between six a.m. and eight p.m. The bill provides that a permittee may not operate a motorcycle, motor scooter, or light motor-driven cycle at any other time unless supervised by the permittee's motorcycle licensed parent or guardian. The bill also increases from ninety days to one hundred eighty days the period which a person must hold a beginner's permit before being eligible for full licensure. The bill provides that in addition to current requirements, a driver must complete at least forty hours of driving practice, including at least ten hours of licensed parental- or guardian-supervised driving practice during darkness, in order to be issued a conditional (currently known as "provisional") driver's license or a special restricted driver's license. The holder of conditional driver's license or a special restricted license may not transport more than two passengers who are under twenty-one years of age unless accompanied by a licensed adult who is twenty-one years of age or older. This restriction does not apply when the conditional driver's license holder is transporting family members, or students to or from school. In addition to current requirements, the bill also provides that a person must pass a specified driver's education course in order to be issued a special restricted driver's license. The bill also provides that for purposes of issuing a special restricted driver's license, the Department of Public Safety must accept a certificate of completion for a student who attends or is attending an out-of-state high school and passed a qualified driver's training course or program equivalent to an approved course or program in this State. The bill also provides that a person while operating a motor vehicle under a conditional license or special restricted driver's license (currently this provision relates only to special restricted driver's license holders) who is convicted of a traffic offense (currently this provision applies only to point assessable offenses) or involved in an accident in which he was at fault shall have the removal of the restrictions postponed for twelve months and is not eligible to be issued a regular driver's license until one year from the date of the last traffic offense or accident in which he was at fault or until he is seventeen years of age. Currently, removal of the license holder's restrictions is postponed for six months during which period the licensee must be "free of any traffic convictions."

The House approved and sent to the Senate H.3818, the "**SOUTH CAROLINA GENERAL OBLIGATION BOND FISCAL RESPONSIBILITY ACT.**" This bill provides

that effective July 1, 2002, State general obligation bonds may be authorized by the General Assembly in a bill or joint resolution enacted only in odd-numbered years and only following the enactment in that year of a joint resolution, the subject matter of which is limited to the purpose of specifically allowing a bond authorization for the year. The bill further provides that the joint resolution must be in effect before a bill or joint resolution authorizing bonds may be given first reading in the House or in the Senate. The bill also provides that a bill or joint resolution authorizing state general obligation bonds may not be given third reading in the House or Senate or reported from a committee of conference or free conference unless it is accompanied by the certificate of the State Treasurer stating that debt service on all outstanding general obligation bonds, when added to the treasurer's estimate of debt service on all such previously authorized but unissued bonds, and the bonds authorized in the bill or joint resolution, regardless of the authorization date, does not exceed the then current limit on debt service imposed pursuant to Section 13(6)(c), Article X of the *South Carolina Constitution*.

The House amended, approved, and sent to the Senate **H.3755**, a bill providing **REVISIONS TO THE STATE BUDGET PROCESS**. The bill prohibits the inclusion in the Governor's recommended budget or in the annual general appropriations bill or in any bill or joint resolution making supplemental appropriations, a provision which: adds to the general and permanent law of the State; amends the general and permanent law of the State, not including amendments applying only for the duration of the fiscal year or for the life of the affected appropriation; repeals any part of the general and permanent law of the State. The bill provides that this prohibition does not apply to a provision imposing, amending, or repealing a tax. The bill also establishes the Joint Zero-Base Budget and Agency Evaluation Selection Committee (the Joint Committee) consisting of ten appointed members of the General Assembly. The Joint Committee is charged to annually select state agencies for evaluation and zero-base budgeting during times the Committee establishes. An agency budget submitted while an agency is undergoing evaluation must be prepared in the form of a zero-base budget and reviewed accordingly. The bill also creates within the Legislative Audit Council a government review division (the division) whose purpose is to evaluate state agency programs to determine whether these programs have outlived their usefulness or should be changed to address the needs of the state's citizens and the General Assembly. The bill provides items which the division may consider in this evaluation, and requires that the division hold a public hearing before making its review and evaluation, receiving testimony from the public, from certain personnel of the program of the agency under review, and from any other interested parties. Chairs of legislative standing committees that have jurisdiction over the agency whose program is under review shall sit with the division at these hearings, and the agency providing the program under review has the burden of demonstrating a public need for the program's continued existence. After the hearing, the division is required to report its findings to the presiding officers of the House and Senate, who will then refer the report to the appropriate standing committees. The bill provides for developing a criteria format and procedure for establishing a termination schedule for the programs of the agencies that are not considered worthy of continuation. The bill includes provisions for terminating such a program and provides that terminated

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programs may be reinstated by the General Assembly for periods not to exceed five years, excluding the year of termination. The bill provides that before August, 2001, the Joint Committee shall select four agencies for zero-base budget submission, and these agencies must make their zero-base budget submission to the Office of State Budget before November, 2001. The Governor is not required under this bill to apply zero-base budget principles in his recommended 2002-03 fiscal year budget for these agencies. Also, the bill provides that these four agencies to the evaluation provisions of the bill. The Joint Committee is required, before August, 2001, to select additional agencies subject to both the evaluation and zero-base budget requirements of the bill, and the agencies selected shall make their zero-base budget submission before October, 2002.

The House amended, approved, and sent to the Senate **H.3502**, a bill that authorizes the creation of **COOPERATIVE EDUCATIONAL SERVICE CENTERS**, defined in the bill as nonprofit regional educational service units established by two or more school districts that may also include one or more "post-secondary institutions" (defined in the bill as institutions of higher learning), designed to provide supporting, instructional, administrative, or other services. The bill requires school districts desiring to establish such a center to enter into a written agreement that includes specified information. The center shall then be formed through resolution of each of the governing boards of the participating districts or institutions. The agreement may be amended to admit additional districts or institutions. The bill provides that these centers are bodies corporate and politic and center employees are eligible to participate in the retirement and insurance plans available to employees of the participating entity. The bill provides for a cooperative center board, and provides for its members' appointment, powers, and responsibilities. The bill delineates specific powers that may be granted to the center by the board, although the board may also grant additional powers to the center as the board deems appropriate. Services of the center would be financed by participating entities, and these funds may also be used to match funds from other sources, either public or private. The bill provides for a participating entity of a center to decline participation in a specific center activity and provides that such an entity is not required to appropriate proportional funds for such activity. The bill also provides for a participating entity in a center to withdraw from a center, and provides for dissolution of a center.

The House amended, approved, and sent to the Senate **H.3175**, a bill **AUTHORIZING RETIRED TEACHERS TO BE EMPLOYED IN SCHOOLS WITH LOW PERFORMANCE RATINGS**. This bill provides that beginning July 1, 2001, any retired certified school teacher or certified employee may be employed in a school or school district which is in a critical geographic need area or has received a "below average" or "unsatisfactory" academic performance rating pursuant to the Education Accountability Act, without penalty from the South Carolina Retirement System.

The House amended, approved, and sent to the Senate **H.3718**. This bill enacts the **LAW ENFORCEMENT OFFICER RETENTION INCENTIVE PROGRAM**, which may be offered by an employer to an active member of the retirement system, other

than an elected official, who is eligible for service retirement. Participation in the program occurs upon mutual agreement of the employer and the employee. The bill provides that a program participant retires for purposes of the retirement system, and the participant's normal retirement benefit is calculated on the basis of the member's average final compensation and service credit at the time the program period begins. The participant shall agree to continue employment for a specified period, not to exceed five years. During the participant's program period, receipt of the participant's normal retirement benefit is deferred and placed in a trust fund on behalf of the participant. The program participant makes no further contributions to the retirement system, accrues no service credit, and is not eligible to receive group life insurance benefits or disability retirement benefits. During the program period, a program participant is not subject to the retirement system earnings limitation for reemployed retirees. Upon termination of employment, the member must receive the balance in the program account either by lump-sum distribution or a tax sheltered rollover into an eligible plan. The bill also includes provisions for a program participant who dies during the program period, and the bill provides that program participants are exempt from the state employee grievance procedure.

The House amended, approved, and sent to the Senate **H.3163**, the "**SOUTH CAROLINA HISTORIC REHABILITATION INCENTIVES ACT.**" The bill provides a state income tax credit for certain expenditures used to rehabilitate certified historic structures located in this State. The bill provides a taxpayer who is allowed a federal income tax credit for such expenditures, a state income tax credit of twenty percent of the expenditures that qualify for the federal credit. The bill provides a taxpayer who is not eligible for such a federal income tax credit and who makes rehabilitation expenses for a certified historic residential structure located in this State, a credit of twenty-five percent of the rehabilitation expenses. For purposes of these provisions, the bill provides definitions for "qualified rehabilitation expenditures," "certified historic structure," "certified historic residential structure," "certified rehabilitation," and "rehabilitation expenses." The bill provides that "rehabilitation expenses" do not include the cost of acquiring or marketing the property, the cost of new construction beyond the volume of the existing building, the value of an owner's personal labor, or the cost of personal property. The bill provides requirements for claiming the credit and provides that the entire credit may not be taken for the taxable year in which the property is "placed in service" (the taxable year the certified rehabilitation is completed). The credit must be taken in equal installments over a five-year period beginning with the year in which the property is placed in service. The bill provides that any unused portion of any credit installment may be carried forward for the succeeding five years. The bill includes a provision allowing an "S" corporation, limited liability company (as defined in the bill), or partnership that qualifies for the credit to pass through the credit earned to each shareholder of the "S" corporation, member of the limited liability company, or partner of the partnership. The bill provides that the amount of the credit allowed a shareholder, member, or partner, would be equal to the shareholder's percentage of stock ownership, member's interest in the limited liability company, or the partner's interest in the partnership for the taxable year multiplied by the amount of the credit earned by the entity. The bill requires that a credit earned by an "S" corporation owing corporate level income tax must be used first the entity level, and only the

remaining credit passes through to each shareholder. The bill provides that additional work done by the taxpayer while the credit is being claimed, for a period of up to five years, must be consistent with the Secretary of Interior's Standards for Rehabilitation, and the bill provides for review and inspection of such additional work with the possibility of forfeiture of the unused portion of the credit if the additional work is not consistent with the Standards for Rehabilitation. The bill authorizes the Department of Revenue and the Department of Archives and History to promulgate regulations for the administration of the provisions included in the bill.

The House amended, approved, and sent to the Senate **H.3447**, a bill **REVISING THE LICENSURE AND REGULATION OF SOCIAL WORKERS**. This bill rewrites the practice act for social workers to make it conform to the uniform administrative framework established for boards and commissions administered by the Department of Labor, Licensure and Regulation (LLR). The bill also makes numerous substantive changes. The legislation creates new definitions for the different levels of social work practice and revises requirements for licensure at each level. The bill provides for a process under which currently licensed social workers are converted to the new licensure classifications created by the legislation. The bill revises the composition of the Board of Social Work Examiners (BSWE) to provide representation of new social work licensure classifications created in the legislation. The legislation adds requirements for client confidentiality and exceptions for legal obligations to report abuse or neglect of a child or vulnerable adult, defense of the licensee in a court proceeding, other court proceedings and where a client presents a danger to himself or others. The legislation also adds an exemption from licensure for government employees who perform social work services as long as they are performed within the course of their employment and the employees do not hold themselves out to be social workers.

The House amended, approved and sent to the Senate **H.3560**, the "**SOUTH CAROLINA VACATION RENTAL ACT**." This bill establishes new guidelines for vacation rental transactions. The legislation applies to anyone renting or managing residential property for vacation rental. The legislation does not apply to lodging provided by hotels, motels, tourist camps, campgrounds, and rental timesharing accommodations. A vacation rental is the lease, sublease, or other rental of residential property for a period of fewer than ninety days, but it does not include rental of residential property on a weekly or monthly basis pursuant to the South Carolina Residential Landlord and Tenant Act. The legislation requires an owner or rental management company and tenant to use a written vacation rental agreement. The intentional failure of an owner or rental management company to use a written vacation rental agreement is an unfair trade practice. No vacation rental agreement is valid and enforceable unless the tenant has accepted the agreement as evidenced by at least one of the following: (1) the tenant's signature on the vacation rental agreement; (2) the tenant's payment of any monies towards the vacation rental agreement; (3) the tenant's taking possession of the property subject to the vacation rental agreement. An owner or rental management company in a vacation rental agreement shall place in a trust account any monies received from the tenant. The owner or rental management company may require the tenant to pay all or part

of any required rent, security deposit, or other fees in advance of the tenancy. The terms of these advanced payments, which may be nonrefundable, must be stated in the vacation rental agreement. The legislation establishes the rights of involved parties in instances where a property that has been rented under a vacation rental agreement is sold to a new owner. The new owner of a residential property subject to a vacation rental must honor existing vacation rental agreements for all vacation rental periods that begin no later than one hundred eighty days after the recorded date of sale or transfer of the residential property. The bill provides that if state or local authorities order a mandatory evacuation of an area that includes a residential property subject to a vacation rental, the tenant in possession of the property shall comply with the evacuation order.

The House returned **S.163** to the Senate with amendment. This bill **INCREASES FROM TWENTY-FIVE THOUSAND DOLLARS TO FIFTY THOUSAND DOLLARS THE MAXIMUM ANNUAL AMOUNT A RETIRED MEMBER OF THE SOUTH CAROLINA RETIREMENT SYSTEMS WHO IS RETURNING TO COVERED EMPLOYMENT MAY EARN** without affecting the monthly retirement allowance he is receiving from the system. This provision applies to a retiree who has been retired for at least sixty days. The bill provides that if a retiree returns to employment covered by the system sooner than sixty days after retirement, the member's retirement allowance is suspended while the member remains employed by the participating employer. The House amended the bill to include certain provisions allowing a member of the General Assembly who has twenty-eight years of service regardless of age or twenty-five years of service and at least seventy-one and one-half years of age may retire and draw a retirement benefit while continuing to serve in the General Assembly.

The House approved and sent to the Senate **H.3663**. This bill **REVISES THE DEFINITION OF "FEDERAL CREDIT" FOR PURPOSES OF THE SOUTH CAROLINA ESTATE TAX ACT**. Currently, "federal credit" means the maximum amount of the credit for state death taxes allowable by Internal Revenue Code Section 2011, and "maximum amount" must be construed so as to take full advantage of the credit as allowed by the Internal Revenue Code. This bill provides that "maximum amount" must be construed so as to take full advantage of the credit as allowed by Internal Revenue Code Section 2011, but only after taking into account other federal estate tax credits permitted by the Internal Revenue Code and not in excess of the amount necessary to reduce the federal estate tax to zero.

The House approved and sent to the Senate **H.3900**. This bill **PROVIDES AN EXEMPTION FROM SALES AND USE TAX FOR MEALS OR FOODSTUFFS PREPARED OR PACKAGED THAT ARE SOLD TO PUBLIC OR NONPROFIT ORGANIZATIONS FOR CONGREGATE OR IN-HOME SERVICE TO THE HOMELESS OR NEEDY OR DISABLED ADULTS** over eighteen years old or individuals over sixty years old. This exemption applies only to meals and foodstuffs eligible for purchase under the USDA food stamp program.

The House amended, approved, and sent to the Senate **H.3777**. This comprehensive bill amends various sections of *Title 12* of the *South Carolina Code*

of Laws, relating to the **ENTERPRISE ZONE ACT AND OTHER STATE TAX LAWS**. According to the Department of Revenue and the Department of Commerce, technical amendments in the bill conform state law with IRS law; correct references to provisions in both the Federal and State Codes of Law; move sections for better organization; and insert language that was left out when recodified. These amendments also clarify the specific application of law by the two agencies.

The House approved and sent to the Senate **H.3838**, a bill pertaining to **DAMAGE OR DESTRUCTION OF RESEARCH FARM PRODUCTS**. The legislation provides that any person that maliciously damages or destroys any farm product and knows the product is grown for testing or research purposes in the context of product development in conjunction or coordination with a private research facility, a university, or any federal, state, or local government agency is guilty of a misdemeanor if the value of the farm product was less than two hundred dollars and, upon conviction, must be punished by a fine of not more than one thousand dollars or imprisonment for not more than one year, or both. If the value of the farm product is two hundred dollars or more, the person is guilty of a felony and, upon conviction, must be punished by a fine of not more than ten thousand dollars or imprisonment for not more than five years, or both. The term 'farm product' for purposes of this legislation means and includes horticultural, aquacultural, viticultural, forestry, floricultural, dairy, livestock, poultry, bee, and other products ordinarily produced on farms. The court may order the defendant to make restitution for the damage or destruction caused. For the purpose of awarding restitution under this section, the court shall determine the market value of the farm product prior to its damage or destruction and, in so doing, shall include the cost of production, research, testing, replacement, and product development directly related to the product damaged or destroyed. The offenses and penalties provided in this legislation are supplemental and in addition to all other offenses and penalties provided by law.

The House amended, approved, and sent to the Senate to **H.3116**. This bill, for purposes of South Carolina individual taxable income, increases from five dollars a day to ten dollars a day the **SUBSISTENCE DEDUCTION ALLOWANCE FOR FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT OFFICERS AND FULL-TIME FIREFIGHTERS AND EMERGENCY MEDICAL SERVICE PERSONNEL**. Upon approval of the Governor, the provisions of the bill would be effective for taxable years after 2001.

The House amended, approved, and sent to the Senate **H.3721**, a bill revising **FEES CHARGED BY CONSUMER FINANCE COMPANIES**. The bill allows a lender to contract for and receive a minimum delinquency charge of five dollars, even if that charge exceeds the limit of five percent of the unpaid amount of the installment. Under the bill, such a delinquency charge may be imposed when an installment is delinquent for ten or more days, rather than for the five or more days currently allowed. The bill allows a lender to charge a maintenance fee of two dollars per month for the term of the loan. Currently, a lender may only charge a one dollar fee.

The House amended, approved, and sent to the Senate **H.3510**. This bill revises provisions relating to **LICENSURE AND REGULATION OF PROFESSIONAL ENVIRONMENTAL SYSTEMS OPERATORS**, so as to conform them to the statutory organizational framework for boards under the administration of the Department of Labor, Licensing and Regulation. The bill further provides for the licensure and regulation of environmental systems operators; and among other things, to expand the number of well driller license types and to organize these licenses into well construction categories; to provide for bonding requirements for the practice of well drilling; to eliminate percolation test technician licensure; to provide for administrative citations and penalties for unlicensed practice and professional misconduct of licensees; to prohibit collection actions by persons drilling wells without a license and to provide for a civil cause of action to plaintiffs to recover payments made for well drilling performed without a license; to expand upon and clarify the grounds for sanctionable misconduct of licensees; to require temporary automatic suspension of a licensee upon conviction of certain crimes; to clarify that the board's jurisdiction over misconduct of licensees includes prelicensure misconduct and actions during licensure but prosecuted after a license becomes inactive; to clarify the privileges and immunities of witnesses, investigators, the board, and others involved in disciplinary actions; to provide for confidentiality of investigations and complainant information; to modify the authority for granting licensure to nonresidents; and to expressly require liberal interpretation of the practice act in favor of environmental protection.

The House approved and sent to the Senate **H.3696**. This joint resolution authorizes the South Carolina Employment Security Commission (the Commission) to expend up to one million, one hundred seventy-two thousand, seven hundred and ninety-five dollars of funds available under Section 903 of the Social Security Act for the purpose of creating, designing, and acquiring equipment and operating software for the operation of **AN UNEMPLOYMENT INSURANCE TAX COLLECTION AND REPORTING SYSTEM** for use by the Commission.

The House approved and sent to the Senate **H.3749**, a bill creating **AN ADDITIONAL CLAIMS REPRESENTATIVE FOR THE DIVISION OF VETERANS AFFAIRS, OFFICE OF THE GOVERNOR**. The person for this position will be appointed by the Director of the Division but must be approved by the Governor. The claims representative will be responsible for doing the following: assist all ex-servicemen in filing, presenting, and prosecuting claims for all benefits under the terms of federal legislation; specialize in the needs and diseases associated with veterans of the Vietnam era; and, be knowledgeable of federal legislation, rules, regulations, and practice of the Veterans Administration. The director of the division may require this claims representative to represent the Division of Veterans Affairs on the South Carolina Agent Orange Advisory Council, the Hepatitis C Coalition, assist with the Agent Orange Information and Assistance program, and represent the director with other functions relating to Vietnam veterans.

The House amended, approved and sent to the Senate **H.3623**, which pertains to **PAGING DEVICES THAT ARE CONFISCATED FROM PUBLIC SCHOOL STUDENTS**. The bill provides that each school district in its policy shall provide for the

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disposition by each school of paging devices that are confiscated which may include destruction of the devices, returning the devices to the owner, or a sale or a gift of the devices to third parties or charities.

The House approved, and sent to the Senate **H.3565**. This bill **EXEMPTS NEWSPAPER CARRIERS FROM THE MANDATORY USE OF SAFETY BELTS** in motor vehicles while engaged in the delivery of newspapers along the carrier's specified newspaper delivery route.

The House approved and sent to the Senate **H.3880**, a bill that furthers and clarifies the comprehensive automobile insurance reform provided under Act 154 of 1997. The legislation restates and confirms the original intent that "clean" drivers who have do not have insurance merit rating points will no longer pay recoupment charges. The legislation clarifies the criteria for the imposition of a **SURCHARGE FOR RECOUPMENT OF LOSSES REMAINING IN THE SOUTH CAROLINA REINSURANCE FACILITY** on March 1, 2002, or any losses accruing thereafter. Beginning on March 1, 2002 and continuing thereafter, a premium surcharge on liability premiums will be imposed under a plan promulgated by the Director of the Department of Insurance using driving records as of March 1, 1999. However, any insured or policyholder without insurance merit rating points on March 1, 1999, pursuant to the Uniform Merit Rating Plan in effect on March 1, 1999, would be exempt from a surcharge.

The House amended, approved and sent to the Senate **H.4022**. This bill provides that notwithstanding any other provision of law, during a state of emergency declared by the Governor and for thirty days thereafter, requirements relating to registration, permitting, size, weight, load, and time of service are suspended for **COMMERCIAL AND UTILITY VEHICLES RESPONDING TO THE STATE OF EMERGENCY**. All vehicles operated upon the public highways of this State under the authority of this section must: (1) be operated in a safe manner; (2) maintain required limits of insurance; (3) be clearly identified as a utility vehicle or with signage indicating it is a commercial vehicle responding to the emergency.

The House amended, approved, and sent to the Senate **H.3932**, a bill establishing an exemption process under which the **OWNER OF AN INDUSTRIAL PARK IS AUTHORIZED TO PROVIDE CERTAIN UTILITY SERVICES TO BUSINESSES THAT ARE TENANTS OF THE PARK** without the required review and approval by the Public Service Commission. The arrangement provided in the legislation allows an industrial park owner to provide its corporate tenants such services as water, steam, and sewerage, but not electricity, gas, or telecommunications. The arrangement would be allowed only if: the utility provider and industrial user have agreed in writing to the terms and conditions for the provision of utility services; and, all jurisdictional utilities having a right to provide utility services have agreed in writing to waive their right to notice and opportunity for a hearing on the written agreement.

The House amended, approved, and sent to the Senate **H.3885**. This bill provides exemptions from sales tax and deed recording fees for **SALES, EXCHANGES, AND**

TRANSFERS OF ELECTRIC TRANSMISSION FACILITIES TO A LIMITED LIABILITY COMPANY which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791 (a) and which is formed to operate or to take functional control of electric transmission assets as defined in the Federal Power Act. The bill also amends the South Carolina Income Tax Act relating to the corporate income tax credit for corporate headquarters by allowing certain limited liability companies to be treated as corporations for this purpose.

The House approved and sent to the Senate **H.3812**. This bill repeals *South Carolina Code of Laws* §41-5-30, relating to the **FEES COLLECTED BY THE SOUTH CAROLINA STATE BAR**.

The House approved and sent to the Senate **H.3484**. This bill **INCREASES THE AMOUNT OF TRAINING REQUIRED TO BECOME A LICENSED ESTHETICIAN OR NAIL TECHNICIAN** in South Carolina. Current law requires an applicant for licensure as an esthetician to have received at least 450 hours in classes on skin care in a school approved by the Board of Cosmetology. This bill increases the minimum number of classroom hours to 600 for licensure as an esthetician. Current law requires an applicant for licensure as a nail technician to have received at least 300 hours in classes on nail care in a school approved by the Board of Cosmetology. This bill increases the minimum number of classroom hours to 450 for licensure as a nail technician.

SENATE

The Senate adopted **S.623**, a Senate Resolution, which designates the week of May 20-26 as **EMERGENCY MEDICAL SERVICES WEEK** in South Carolina. The community is encouraged to observe this week with appropriate programs, ceremonies, and activities.

The Senate returned **H.3850**, which designates Camden Military Academy as the **OFFICIAL STATE MILITARY ACADEMY**, to the House with two technical amendments.

S.484 was ordered enrolled for ratification. The bill increases from four and one quarter to five percent of compensation, the minimum employer contribution under the optional retirement program for publicly-supported four-year and postgraduate institutions of higher education.

S.484 renames the optional retirement program for teachers and school administrators as the **"STATE OPTIONAL RETIREMENT PROGRAM"** (ORP). The ORP is a defined contribution plan. Employees of a school district, four-year and postgraduate institution of higher education supported and under the control of the State, a technical college supported and under the control of the State, and the State or any of its departments, agencies, bureaus, commission, and institutions are eligible to participate in the ORP so long as they were hired by certain dates. Note

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that an employee is not eligible to participate in the ORP unless the employee is eligible for membership in the South Carolina Retirement System (SCRS). If an eligible employee fails to make the initial election within the required time, the employee is considered to have elected membership in the SCRS. An eligible employee electing to participate in the ORP assumes all investment risk. An election to participate in the ORP is irrevocable except that an eligible employee may irrevocably elect to join the SCRS during the fifth calendar year after initial enrollment in the ORP. All participants in the Optional Retirement Program for Teachers and School Administrators on July 1, 2001, and the Optional Retirement Program for Publicly-Supported Four-Year and Postgraduate Institutions of Higher Education on July 1, 2002, thereafter are participants in the State ORP.

Under **S.484**, the following retirement and death benefit payment options may be provided for a participant in the ORP: annuities, lump-sum distributions, partial distributions, or periodic withdrawals, whether through individual annuity contracts or mutual funds or individual certificates issued for group annuity contracts, fixed, or variable in nature, or a combination of them. Also, group life insurance benefits may be paid by the State for service rendered while participating in the ORP under the same requirements set out for participants in the SCRS's defined benefit plan. However, a postretirement group life insurance benefit must not be paid by the State for service rendered while participating in the ORP.

S.229, relating to **OMNIBUS MILITARY REVISIONS**, was amended, read for the third time, and sent to the House. Highlights of this legislation include the following:

- This bill encourages owners of land to make land and water areas available to the military department for training and operational purposes by defining and limiting the owner's duty of care and limiting the owner's liability toward military persons entering the owner's land.
- This bill provides for the granting of continuances in court cases when a party or his/her attorney is absent by reason of attendance on active duty as a member of the National Guard.
- Under this bill, a person subject to the Military Code who recklessly endangers the life or safety of another may be punished as a court-martial may direct.
- Under this bill, burial flags must be obtained from the United States when available.
- Relating to vacancies in the office of Adjutant General, this bill deletes the provision that the governor may appoint an officer who is of field grade rank or higher and instead provides that the governor may appoint an officer who is at least the rank of colonel and meets the eligibility requirements for a constitutional officer.

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- Relating to appointment, qualifications, and tenure of commissioned and warrant officers, this bill deletes the requirement that a commissioned or warrant officer be a resident of this state and instead provides that a commissioned or warrant officer must meet federal residency requirements for the appointment.
- This bill conforms the National Guard relative rank list to federal military law.
- This bill allows a commander to appoint an officer to command a subordinate or detached unit, and further provides that if none is appointed, the senior officer of the line on duty is in command.
- Under this bill, the Adjutant General may investigate the conduct, capacity, and general competence of officers, and the bill revises the grounds for the discharge of officers.
- Relating to officer selection boards, this bill deletes certain obsolete provisions relating to brigadier general and colonel selection boards.
- With regards to the transfer of officers within the Army National Guard, this bill deletes a provision that a transfer must be mutually acceptable to commanders concerned.
- Relating to a vacancy in the headquarters of the Air National Guard, this bill deletes a provision that no officer shall be assigned to headquarters, Air National Guard, until he/she has completed three years commissioned service in the South Carolina Air National Guard.
- Under this bill, the Adjutant General is the manager as well as custodian of training facilities, and the facilities owned or leased for the military department may be rented or subleased when not in use for training.
- Relating to terms of enlistment, this bill deletes the three-year provision and instead provides that original enlistments in the National Guard must be for a period to comply with governing Department of Defense regulations.
- Absent separate appointment, under this bill the Senior Judge Advocate of the National Guard is the State Judge Advocate.
- This bill increases the fine that may be imposed by General Courts-Martial, Special Courts-Martial, and Summary Courts-Martial.
- Under this bill, any officer on or off duty with the military forces may serve on courts-martial.

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- Under this bill, the offense of disrespect is applicable to both superior officers and noncommissioned officers.

On Friday, April 27, twenty-six bills, by prior unanimous consent, received third reading and were sent to the House. Listed below are brief summaries of these bills; more comprehensive summaries will follow when the bills are referred to committees in the House.

- **S.49** authorizes the **TATTOOING** of certain body parts of individuals over the age of twenty-one. The bill outlines procedures and guidelines that tattoo artists must follow.
- **S.74** relates to **IMMEDIATELY FURNISHING INFORMATION ON THE AFFAIRS OR ACTIVITIES OF THE STATE GOVERNMENT TO MEMBERS OF THE GENERAL ASSEMBLY**. Notwithstanding any other provision of law, the responsible official of each department, bureau, division, office, board, commission, institution, or any other agency or undertaking of the State, upon receipt of a written request from the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the chairman of any standing committee of the Senate or House of Representatives, or the minority leader of the Senate or House of Representatives, must immediately furnish to the requestor, in such form as delineated in the written request, any information regarding any of the respective affairs or activities of the entity.
- **S.124** provides that a **YOUTHFUL OFFENDER** includes a person under seventeen years of age who has committed a nonviolent crime that is a Class D felony.
- **S.148** relates to the **ISSUANCE OF A SPECIAL RESTRICTED DRIVER'S LICENSE TO CERTAIN MINORS** by the Department of Public Safety. This bill provides that the restrictions contained in this driver's license may be modified or waived by the department, if the restricted licensee proves that the restriction interferes with travel between the licensee's home and church related events.
- **§.232** enacts the "**SOUTH CAROLINA VACATION RENTAL ACT**" so as to regulate the business of rental management of vacation time rental property.
- **S.234** provides that a **STATEMENT MADE BY A CHILD LESS THAN SIXTEEN YEARS OF AGE** describing an act of sexual contact or physical abuse performed with or on the child by another person, or with or on another person in the presence of the child is admissible as evidence under certain circumstances.
- **S.277** makes **AUDIT WORKING PAPERS OF THE LEGISLATIVE AUDIT COUNCIL** confidential and provides that these papers and all records of the

council with the exception of final audit reports are not subject to public disclosure.

- **S.327** this bill limits the number of **LITTER CONTROL OFFICERS** within a county, and the bill authorizes litter control officers who are certified as law enforcement officers to perform arrests relating to their primary duties of enforcing litter control laws. Additionally, the bill provides for the description of the **OFFICIAL BADGE TO BE WORN BY THE STATE'S SHERIFFS AND DEPUTY SHERIFFS**.
- **S.339** relates to the **OFFENSE OF A STATE OR LOCAL GOVERNMENT EMPLOYEE HAVING SEXUAL INTERCOURSE WITH A PATIENT OR TRAINEE OF A MENTAL HEALTH FACILITY OR AN INMATE OF A CORRECTIONAL FACILITY**. The bill broadens the scope of the statute to cover supervisory situations outside of an institution. The bill provides for an offense of sexual misconduct that does not include intercourse and provides for an offense of falsely reporting sexual misconduct.
- **S.357** increases membership on the **EDUCATION OVERSIGHT COMMITTEE** from seventeen to eighteen. The additional member must be a superintendent of a public school district to be appointed by the governor.
- **S.372** relates to the **STATEWIDE ASSESSMENT PROGRAM TO MEASURE STUDENT PERFORMANCE UNDER THE EDUCATION ACCOUNTABILITY ACT**. This bill deletes the requirement that a standards based assessment will be developed for grades one and two for use by schools and districts as deemed appropriate by the district officials.
- **S.379** is an **OMNIBUS MARINE RESOURCES BILL**.
- **S.380** provides that **EVIDENCE DISCOVERED AS A RESULT OF A WARRANTLESS SEARCH** administered pursuant to a complaint is admissible in a court of law under certain circumstances.
- **S.390** enacts the "**SOUTH CAROLINA FIREFIGHTERS EMPLOYMENT AND REGISTRATION ACT**." Among other things, this bill requires criminal records checks on firefighters and requires registration of firefighters with the Office of the State Fire Marshal.
- **S.429** provides that it is unlawful for a person to engage in **CYBERSTALKING** or to unlawfully **HARASS OR STALK ANOTHER PERSON BY ELECTRONIC COMMUNICATION OR ELECTRONIC MAIL**.
- **S.469** provides that a person who causes bodily injury which results in the death of the victim is not criminally responsible for the victim's death and must not be prosecuted for a homicide offense, if at least three years intervene between the injury and the death of the victim. Under this bill, the common law "**YEAR-AND-A-DAY-RULE**" is abrogated in this state.

- **S.488** provides that **CERTAIN OFFENSES INVOLVING MACHINE GUNS, SAWED-OFF SHOTGUNS, AND RIFLES** do not apply to any person authorized to possess these weapons by the United States Department of the Treasury, the Bureau of Alcohol, Tobacco and Firearms, or any other federal agency empowered to grant this authorization.
- **S.489** provides that it is **UNLAWFUL FOR A PERSON TO DISCHARGE OR CAUSE TO BE DISCHARGED UNLAWFULLY FIREARMS AT OR INTO ANY VEHICLE, AIRCRAFT, WATERCRAFT, OR OTHER CONVEYANCE, DEVICE, OR EQUIPMENT WHILE IT IS OCCUPIED**. A person who violates these provisions is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than ten years, or both.
- **S.492** provides that persons convicted of burglary, second degree must provide a sample for the **STATE DNA DATABASE**.
- **S.498** makes several amendments to the **UNIFORM COMMERCIAL CODE**.
- **S.511** provides, among other things, that the State Department shall conduct, at least once every five years a **SUBSTANTIVE QUALITY REVIEW OF THE CHILD PROTECTIVE SERVICES AND FOSTER CARE PROGRAMS IN EACH COUNTY AND EACH ADOPTION OFFICE IN THE STATE**.
- **S.513** requires **POLITICAL PARTIES** to comply with certain certification provisions.
- **S.557** authorizes the **BOARDS OF TRUSTEES OF SOUTH CAROLINA STATE UNIVERSITY, WINTHROP UNIVERSITY, AND THE COLLEGE OF CHARLESTON** to enter into certain lease agreements with private entities.
- **S.576** adds an additional felony penalty when a person wears **BODY ARMOR** when committing a crime involving a violent act or a threat of a violent act. Under this bill, it is unlawful for a person who has been convicted of a violent crime to purchase, own, possess, or use body armor. The bill prescribes procedures for gaining an exception from the chief of police or county sheriff. Additionally, the bill authorizes law enforcement agencies to issue body armor to a person in custody or to a witness.
- **S.624** proposes to reduce from eight hundred eighty dollars to eight hundred seventeen dollars the **ANNUAL FEE FOR THE AUTOMOBILE MANUFACTURED STANDARD LICENSE PLATE** for vehicles in its employee benefit program and for the testing, distribution, evaluation, and promotion of its vehicles. Also, the joint resolution proposes to proportionately reduce the allocations of this fee revenue.

JOINT ASSEMBLY

On Thursday, April 26, the House and Senate met in Joint Assembly to introduce and honor the winners of the **2001 JEAN LANEY HARRIS FOLK HERITAGE AWARD** and the members of the 2001 Jean Laney Harris Folk Heritage Award Advisory Committee for their outstanding contributions to folk art in South Carolina.

The winners entertained the members of the Joint Assembly -- Mr. Bill Pinckney, a beach and gospel musician from Sumter; the Sonoco Men's Club, a traditional gospel group from Hartsville; Mr. Alvin J. Wall, a bluegrass musician from Charleston; Mr. Willie Lee Williams, a master hash-maker from Varnville; and Ms. Marquette L Goodwine, founder and director of the *Gullah/Geechee Sea Island Coalition* and the traveling performance troupe *Gullah Cunneckshun*. The members of the Joint Assembly were entertained with songs from the respective musical talents and an anecdotal *Gullah* performance by Ms. Goodwine.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full committee did not meet this week.

EDUCATION AND PUBLIC WORKS

The full Education and Public Works Committee did not meet this week.

JUDICIARY

The full Judiciary Committee did not meet this week.

LABOR, COMMERCE AND INDUSTRY

The full Labor, Commerce and Industry Committee met on April 24 and reported out three bills. The Committee gave a report of favorable with amendment on H.3822. This bill authorizes the Department of Insurance to issue **LIMITED LICENSES ALLOWING A RENTAL COMPANY TO OFFER OR SELL INSURANCE IN CONNECTION WITH THE RENTAL OF A MOTOR VEHICLE**. A rental company issued the limited license would be authorized to offer or sell in conjunction with a rental agreement not exceeding ninety consecutive days personal accident

insurance covering the risks of travel, liability insurance, personal effects insurance, roadside assistance and emergency sickness protection programs, and any other travel or vehicle related coverage in connection with and incidental to the rental of vehicles. A limited licensee may only offer or sell insurance through a licensed insurer. A limited licensee may act as an agent for an insurer without obtaining an agent's license.

The committee gave a favorable report on H.3880, a bill that furthers and clarifies the comprehensive automobile insurance reform provided under Act 154 of 1997. The legislation restates and confirms the original intent that "clean" drivers who have do not have insurance merit rating points will no longer pay recoupment charges. The legislation clarifies the criteria for the imposition of a **SURCHARGE FOR RECOUPMENT OF LOSSES REMAINING IN THE SOUTH CAROLINA REINSURANCE FACILITY** on March 1, 2002, or any losses accruing thereafter. Beginning on March 1, 2002 and continuing thereafter, a premium surcharge on liability premiums will be imposed under a plan promulgated by the Director of the Department of Insurance using driving records as of March 1, 1999. However, any insured or policyholder without insurance merit rating points on March 1, 1999, pursuant to the Uniform Merit Rating Plan in effect on March 1, 1999, would be exempt from a surcharge.

The committee gave a report of favorable with amendment on H.3932, a bill establishing an exemption process under which the **OWNER OF AN INDUSTRIAL PARK IS AUTHORIZED TO PROVIDE CERTAIN UTILITY SERVICES TO BUSINESSES THAT ARE TENANTS OF THE PARK** without the required review and approval by the Public Service Commission. The arrangement provided in the legislation allows an industrial park owner to provide its corporate tenants such services as water, steam, and sewerage, but not electricity, gas, or telecommunications. The arrangement would be allowed only if: the utility provider and industrial user have agreed in writing to the terms and conditions for the provision of utility services; and, all jurisdictional utilities having a right to provide utility services have agreed in writing to waive their right to notice and opportunity for a hearing on the written agreement.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full Medical, Military, Public and Municipal Affairs Committee met on April 24 and reported out two bills. The committee gave a favorable report on H.3749, a bill creating **AN ADDITIONAL CLAIMS REPRESENTATIVE FOR THE DIVISION OF VETERANS AFFAIRS, OFFICE OF THE GOVERNOR**. The person for this position will be appointed by the Director of the Division but must be approved by the Governor. The claims representative will be responsible for doing the following: assist all ex-servicemen in filing, presenting, and prosecuting claims for all benefits under the terms of federal legislation; specialize in the needs and diseases associated with veterans of the Vietnam era; and, be knowledgeable of federal legislation, rules, regulations, and practice of the Veterans Administration. The director of the division may require this claims representative to represent the Division of Veterans

Affairs on the South Carolina Agent Orange Advisory Council, the Hepatitis C Coalition, assist with the Agent Orange Information and Assistance program, and represent the director with other functions relating to Vietnam veterans.

The committee submitted a favorable report on H.3484. This bill **INCREASES THE AMOUNT OF TRAINING REQUIRED TO BECOME A LICENSED ESTHETICIAN OR NAIL TECHNICIAN** in South Carolina. Current law requires an applicant for licensure as an esthetician to have received at least 450 hours in classes on skin care in a school approved by the Board of Cosmetology. This bill increases the minimum number of classroom hours to 600 for licensure as an esthetician. Current law requires an applicant for licensure as a nail technician to have received at least 300 hours in classes on nail care in a school approved by the Board of Cosmetology. This bill increases the minimum number of classroom hours to 450 for licensure as a nail technician.

WAYS AND MEANS

The Ways and Means Committee reported favorable with amendment on two bills, both of which are cited as the "**SOUTH CAROLINA EDUCATION LOTTERY ACT.**" As amended by the Committee, H.3307 and S.496 are identical bills.

Highlights of the two bills as reported from the Committee are as follows:

- Creates the **South Carolina Lottery Commission** as an instrumentality of the State and a public commission with powers comparable to those exercised by commissions engaged in entrepreneurial pursuits. The Commission and its employees are subject to the South Carolina Consolidated Procurement Code, the South Carolina Administrative Procedures Act (APA), the South Carolina Ethics Reform Act, and the South Carolina Freedom of Information Act.
 - Nine member **Board of Commissioners** – three appointed by Governor, three appointed by the President *Pro Tempore* of the Senate, three appointed by the Speaker of the House;
 - **Board duties** include but are not limited to approving budget and terms of lottery procurements, hearing appeals of hearings, promulgating regulations, adopting policies and procedures regarding conduct of the lottery;
 - **Advertising** expenditures limited to one-half of one percent of gross lottery revenues; advertising contracts limited to one year in duration;
 - Commission may not use any machines otherwise prohibited in the **Video Games Act of 1999**;
 - A "**temporary regulation**" policy is established outside of the APA for operating instant ticket games, one-dollar-in-state lottery games and one-dollar joint or multi-state games. Temporary regulations are repealed July 15, 2004, or on the effective date of regulations promulgated pursuant to the APA. If no regulations have been

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promulgated by July 15, 2004, the Commission may promulgate emergency regulations.

- The Commission must have tickets available for sale to the public as close to **November 1, 2001**, as practical.
- Board appoints **Executive Director** who directs day-to-day operations, and an internal auditor who reports directly to the Board.
- The Governor appoints a **Lottery Retail Advisory Board**, composed of ten lottery retailers and charged to advise the Board of Directors on retail operations and to relay concerns of lottery retailers.
- **Lottery vendors** must be investigated if they are finalists in submitting a bid, proposal, or offer as part of a procurement; lottery vendor finalists pay \$5,000 for costs of investigation, which is refunded if not needed to cover the costs. Lottery vendors may not: 1) contribute for one year prior to entering the procurement process and during the term of the contract to the campaign of a candidate for political office; 2) hire lobbyists; 3) place advertisements promoting a lottery or its association with the South Carolina Lottery Commission.
- The Lottery Commission must develop and maintain a statewide network of **lottery retailers**. Retailers will receive commissions of at least 7% of gross sales and may receive 1% for cashing of winning lottery tickets for prizes less than \$600. The Board will develop a list of objective criteria for qualification for lottery retailers. The bill includes specific circumstances which would prohibit an applicant from becoming a lottery retailer.
- A person must be at least **eighteen years old** to buy a lottery ticket, but may buy a ticket for the purpose of making a gift to a person of any age. The bill provides penalties and fines for a person who knowingly sells a lottery ticket to a person under eighteen, for a person who allows an individual under eighteen to play any lottery game, and for a person under age eighteen who knowingly purchases a lottery ticket. **People in prison or on probation or parole may not win a lottery prize.**
- The **first \$500,000** of unclaimed prize money received annually must be appropriated to the **Department of Alcohol and Other Drug Abuse Services** for the treatment of compulsive gambling disorder and educational programs related to that disorder. Unclaimed prize money in excess of \$500,000 must be deposited into the Education Lottery Account.
- Lottery retailers, vendors, applicants for retailer licenses, or lottery game ticket holders may **appeal a decision of the Commission to the Administrative Law Judge Division (ALJ)**. Judicial review of an ALJ decision would go to the Circuit Court pursuant to the South Carolina Procurement Code.
- To ensure the financial integrity of the lottery, requirements are delineated for the Commission to **report regularly** to the Governor, the President *Pro Tempore* of the Senate, the Speaker of the House, the State Auditor, the Comptroller General, the State Treasurer, and the Chairs of the House Ways and Means Committee and the Senate Finance Committee.
- The **South Carolina Education Lottery Account** is established for deposit of net lottery proceeds.
 - First proceeds from this account will go to **increasing the current LIFE Scholarship** to full cost of tuition at 4-year and 2-year public

institutions of higher education, plus an annual \$300 book allowance. Students at 4-year private institutions could receive a maximum \$3,000 scholarship; students at 2-year private institutions would be eligible for a scholarship of no more than the cost of tuition at a 2-year public institution.

- Eligibility for **LIFE Scholarship is expanded** for entering freshmen at 4-year institutions in school year 2002-03, to allow students to qualify by achieving two of the following three criteria: B average or better in high school; SAT of 1100 or higher; top 30% of high school graduating class.
- Students attending a **technical college** and taking between 18 and 30 credit hours will be eligible for a scholarship equal to one-half of the cost of tuition if they have a B average in high school.
- **Remaining annual lottery revenue** will be appropriated to the General Assembly in the annual appropriations bill for the following purposes:
 - Funding for the **Education Accountability Act of 1998** or any new law passed by the General Assembly to improve education.
 - **New higher education institution programs** enacted by the General Assembly, including the creation of endowed chairs at the state's universities.
 - **Youth Education Scholarships** up to \$1,000 for four year olds who attend a public or private kindergarten, preschool, or child development center.
- At least every two years, the General Assembly shall **review and evaluate the success and efficiency of the Commission** and of their operation of the lottery. After such review, the General Assembly may transfer functions of the Commission, in whole or in part, to another agency or redirect the mission of the Commission.

BILLS INTRODUCED IN THE HOUSE

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.3998 BAN ON FARM EQUIPMENT FROM COUNTRIES THREATENED BY HOOF AND MOUTH DISEASE Rep. Limehouse

This joint resolution provides that a person may not own, possess, or operate used farm equipment that was imported from a country determined to be a threat for the spread of hoof and mouth disease by the United States Department of State, the United States Department of Agriculture, the United States Customs Service, or the South Carolina Department of Agriculture. The South Carolina Department of Agriculture must seize and dispose of any equipment that violates the provisions contained in this section. Once the federal government determines a country is

clear of a threat of the disease, then the state's ban on the ownership, possession, or use of equipment imported from that country is rescinded.

H.4002 MORATORIUM ON SWINE FARM CONSTRUCTION/EXPANSION

Rep. M. Hines

This bill provides that there is a moratorium on the construction or expansion of swine farms, swine houses, and on lagoons and animal waste management systems for swine farms, and on the issuance of any permit required for the construction or expansion of swine farms, swine houses, and on lagoons and animal management systems for swine farms and swine houses. Until and unless otherwise provided by law, it is unlawful for any person, state agency, county, county agency, municipality, or municipal agency to issue a permit for an animal waste management system for a new swine farm or the expansion of an existing swine farm. The construction or expansion of a swine farm or animal waste management system for a swine farm is unlawful and prohibited during the period of the moratorium regardless of the date on which a site evaluation for the swine farm is completed and regardless of whether the animal waste management system is permitted under applicable law. The bill provides that the moratorium does not apply to specified repairs and maintenance of existing facilities.

H.4032 BAITING IN GAME ZONE 4 Rep. J. M. Neal

This bill provides that, notwithstanding any other provision of law, on all Wildlife Management Area lands in Game Zone 4, baiting or hunting over a baited area is prohibited. On all other lands in Game Zone 4, except for deer, big game, and feral hogs cannot be baited or hunted over bait. As used in this subsection 'bait' or 'baiting' means the placing, depositing, exposing, distributing, or scattering of shelled, shucked or unshucked corn, wheat or other grain or other food stuffs to constitute an attraction, lure, or enticement to, on, or over any area. 'Baited area' means an area where bait is directly or indirectly placed, deposited, exposed, distributed, or scattered. The area remains a baited area for ten days following complete removal of bait.

EDUCATION AND PUBLIC WORKS

H.4019 REQUIREMENT FOR DRAFTING LEGISLATION Rep. Martin

This bill requires that all legislation considered by the General Assembly must be drafted so that a person with a high school education can clearly understand it.

JUDICIARY

H.3995 "SOUTH CAROLINA PRIVATE PROPERTY RIGHTS PROTECTION ACT" Rep. Harrison

This bill establishes the "South Carolina Private Property Rights Protection Act" which outlines procedures whereby a property owner may seek relief when a specific action of a governmental entity has the effect of an unconstitutional taking of real property or has resulted in an unnecessary hardship on the use of real

property. The bill provides that an administrative law judge must preside over a proceeding filed pursuant to the South Carolina Private Property Rights Protection Act; the administrative law judge must determine whether the governmental action has resulted in a taking or the imposition of unnecessary hardship on the real property.

H.3996 MUNICIPAL IMPROVEMENTS Rep. Edge

This bill relates to municipal improvements. Under this bill, the provisions of *South Carolina Code of Laws* §5-37-45 (Inclusion in improvement district of area in which the proposed improvements have been constructed or are under construction) do not apply to any area proposed for inclusion within an improvement district which, within three years prior to the date of the adoption of the resolution required by *South Carolina Code of Laws* §5-37-50 (Resolution regarding improvement plan and public hearing) is subject to a development agreement pursuant to the South Carolina Local Government Development Agreement Act.

H.3999 FREEDOM OF INFORMATION Rep. Harrison

With regards to the Freedom of Information Act and the public's right to inspect or copy public records, this bill provides for a shorter time frame for requests to be answered. The bill also provides that the failure to respond bars the assertion of a claim of exemption from disclosure except in limited circumstances. The bill further provides that when a request is granted the documents must be made available immediately, and a requester whose request for records is denied may file a contested case proceeding before the Administrative Law Judge Division (ALJD). If the judge rules the request must be granted, the requestor may be awarded attorney's fees and costs for the proceeding before the ALJD.

H.4004 PROXIMITY REQUIREMENTS FOR ESTABLISHMENTS AND PLACES OF BUSINESS WITH LIQUOR LICENSES Rep. Bingham

Under this bill, proximity requirements for establishments and places of business with liquor licenses requirements are extended to public libraries. The term 'public library' for this purpose means a state or local library open to the general public.

H.4012 BODY ARMOR Rep. Knotts

The term 'body armor' as used in this bill means clothing or a device designed or intended to protect an individual's body or a portion of an individual's body from injury caused by a firearm. Under this bill, an individual who commits or attempts to commit a crime that involves a violent act or a threat of a violent act against another person while wearing body armor is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than two thousand dollars, or both. The bill further provides that it is unlawful for a person who has been convicted of a violent crime to purchase, own, possess, or use body armor. The bill outlines procedures whereby a person whose livelihood or safety is dependent upon his or her ability to own, possess, or use body armor to petition the local chief of police or local unit of government in which he or she resides.

H.4026 BOND HEARINGS Rep. Whipper

A person charged with a bailable offense under this bill must have a bond hearing within twenty-four hours of his/her arrest and must be released within a reasonable time, not to exceed four hours, after the bond is delivered to the incarcerating facility.

H.4030 MAGISTRATE'S COURT JURISDICTION TO HEAR THE OFFENSE OF DRIVING WHILE ONE'S LICENSE IS SUSPENDED Rep. Easterday

The bill provides that the magistrate's court has concurrent, not exclusive, jurisdiction to hear the offense of driving while one's license is suspended for reasons other than for driving while under the influence of alcohol or drugs.

LABOR, COMMERCE, AND INDUSTRY

H.4000 LIMITING LEGAL ACTIONS AGAINST LAND SURVEYORS

Rep. Robinson

This bill provides that, notwithstanding any other provision of law, an action to recover damages for a deficiency, defect, omission, error, or miscalculation in any survey or plat must be brought against registered surveyors or their employees engaged in the practice of land surveying who performed or furnished the survey or plat not more than four years from the date of the survey or plat. The cause of action in these cases accrues when the services are rendered as shown from the date on the survey or plat. An action not instituted within the four-year period provided by this section is forever barred. This limitation provided by subsection is not available as a defense to a person guilty of fraud, gross negligence, or recklessness in performing or furnishing the survey or plat or to a person who conceals any such cause of action. The legislation also removes land surveying from provisions limiting civil actions based upon defective or unsafe condition of improvements to real property.

H.4001 REPETITIVE MOTION INJURIES UNDER WORKERS' COMPENSATION Rep. Robinson

This bill provides that, where an injury, personal injury, or disease results from a series of events in employment of a similar or like nature which occur regularly, continuously, or at frequent intervals in the course of the employment and over extended periods of time, whether the events may or may not be attributable to fault of the employer, the disease attributable to these causes shall be compensable as an injury by accident only if: (1) the injury, personal injury, or disease arises out of and in the course of employment; (2) the injury, personal injury, or disease is due to hazards in excess of those ordinarily incident to employment, and is peculiar to the particular occupation in which the employee is engaged; and (3) the injury, personal injury, or disease is caused by a hazard recognized as peculiar to a particular trade, process, occupation, or employment as a direct result of continuous exposure to the normal working conditions thereof.

H.4013 REVISIONS TO SOUTH CAROLINA EMPLOYMENT SECURITY LAW

Rep. Cato

This bill makes various revisions to South Carolina Employment Security Law. The bill revises the definition of "insured worker" so as to provide that this term is dependent upon payment of wages in at least two quarters rather than upon the amount of wages paid in a specified period. The bill makes revisions relating to the definition of "unemployed", so as to provide that if an individual has made any contributions to a retirement or other type plan there must not be a reduction in the weekly benefit amount payable to the individual. The bill makes revisions relating to unemployment benefit payments which may not be charged to a former employer, so as to clarify that such payments may not be charged if the person left employment for good cause not connected with the employment. The bill makes revisions relating to the suspension of benefits to a claimant who made a false statement or failed to disclose a material fact when filing a claim, so as to authorize the Employment Security Commission to penalize the claimant by withholding future benefits he may become entitled to. The bill makes revisions relating to recovery of benefits paid to a person not entitled to receive them, so as to establish circumstances under which the commission may waive repayment of overpaid benefits and to require a person who received benefits in another state to which he was not entitled to pay the commission for these overpayments if both states have entered into an interstate reciprocal overpayment recovery agreement.

H.4014 EMPLOYMENT STABILIZATION Rep. Cato

This bill requires employers to make certain employment information and reports available to the Employment Security Commission and to restrict the information and reports for certain uses. The bill revises provisions pertaining to agencies to whom Employment Security Law information may be disclosed. The bill makes revisions relating to appeals procedures from a decision of the commission, so as to specify that determinations and decisions of the commission must be mailed to the party, rather than mailed or delivered to the party. The bill makes revisions relating to procedures to obtain judicial review of a decision of the commission, so as to conform these procedures to the South Carolina Administrative Procedures Act and the South Carolina Rules of Civil Procedure.

H.4025 "SOUTH CAROLINA PYROTECHNIC LICENSING AND SAFETY ACT"

Rep. Law

This bill enacts the South Carolina Pyrotechnic Licensing and Safety Act to provide for the licensure and regulation of persons who sell, offer to sell, or store fireworks.

H.4029 "MOTORIST INSURANCE IDENTIFICATION DATABASE PROGRAM ACT" Rep. Cato

This bill creates a motorist insurance identification database program for the purpose of establishing a database to use when verifying compliance with the State's motor vehicle financial security requirements. The bill makes revisions regarding reporting requirements for proof of motor vehicle insurance.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.4003 "ACCESS TO MEDICAL TREATMENT ACT" Rep. Barfield

This bill enacts the "Access to Medical Treatment Act" so as to provide that individuals have the right to be provided with experimental or nonconventional medical treatment for a potentially life threatening or chronically disabling disease if the treating physician agrees to the treatment. The legislation provides conditions under which a physician may provide such treatment. The bill provides that treating a person in compliance with these provisions is not, in itself, unprofessional conduct.

H.4023 HEALTH CARE PLANS Rep. Lloyd

This bill provides for the manner in which and procedures under which persons enrolled in health care plans shall have access to information regarding their plan, access to health care services and providers including choices among providers under their plan, standards on which health care decisions are made, a process for appealing these decisions, and to provide for the protection of the privacy of health care information.

H.4028 SPECIAL CARE PROGRAMS FOR THOSE WITH AIDS/ HIV POSITIVE

Rep. Lee

This bill provides that a nursing home, community residential care facility, or daycare facility for adults licensed by the Department of Health and Environmental Control which offers to provide or provides a special care unit or program for persons who have AIDS or who are HIV positive must include in its policies and procedures and disclose to the responsible party seeking a placement within the special care unit or program, the form of care or treatment provided that distinguishes it as being especially applicable to or suitable for persons who have AIDS or who are HIV positive. The information that distinguishes the form of care or treatment must include criteria for admission, transfer, and discharge, care planning, staffing patterns, staff training, physical environment, resident and participant activities, family role in care, and unique costs to the resident or participant associated with this specialized service delivery.

H.4033 THE "REDUCING RACIAL AND ETHNIC HEALTH DISPARITIES: CLOSING THE GAP GRANT PROGRAM" Rep. Allison

This bill establishes the Reducing Racial and Ethnic Health Disparities: Closing the Gap Grant Program, to be administered by the Department of Health and Environmental Control. The program is created to provide funding through grants to local organizations and programs to improve health outcomes of racial and ethnic populations. The bill establishes the Closing the Gap Committee to approve grants and distribute funding and to provide for its membership and additional duties. The bill establishes eligibility criteria and priorities for grant proposals and guidelines for issuing and reviewing grants.

H.4038 USE OF PRISONERS FOR COMMUNITY PROJECTS Rep. White

This bill provides that the Department of Corrections shall provide prisoners not otherwise engaged in a useful prison occupation for community projects to assist in

the residential construction and repair of low-income housing proposed by local governments or proposed by private organizations such as Habitat for Humanity. In order for the department to provide prisoners for projects for private organizations, the organization must submit for approval an application to the department on forms and in the manner as prescribed by the department.

WAYS AND MEANS

H.3993 FEE IN LIEU OF COUNTY PROPERTY TAXES, QUALIFICATION GUIDELINES, INDUSTRIAL DEVELOPMENT PROJECTS, POLITICAL SUBDIVISIONS Rep. Wilkins

This bill revises various provisions regarding fee in lieu of taxes. The bill amends current law regarding qualifications of certain inducement lease agreements in connection with property qualifying for a fee in lieu of property taxes by providing guidelines for the qualification of a sponsor and sponsor affiliate for the four percent fee. ("*Sponsor*" means one or more entities which sign the fee agreement with the county and also includes a sponsor affiliate unless the context clearly indicates otherwise. "*Sponsor affiliate*" means an entity that joins with or is an affiliate of a sponsor and that participates in the investment in, or financing of, a project.) The bill provides that the assessment ratio may not be lower than four percent for a sponsor and a sponsor affiliate who are together investing at least \$400 million and creating at least two hundred new full time jobs at the site qualifying for the fee and: the investment by the sponsor affiliate is considered necessary and suitable for the operation of a sponsor facility; the sponsor affiliate is located contiguous to the sponsor project; 100% of the output of the sponsor affiliate is provided to the sponsor for the project; and the sponsor affiliate is not considered a supplier of manufactured parts or of any value added output of the sponsor.

The bill also provides that the millage rate agreement may be executed at any time up to and including, but not later than, the date of the initial lease agreement. Currently, the millage rate agreement must be executed on the date of the inducement agreement or any time thereafter, up to and including the date of the initial lease agreement. The bill provides that the millage rate must be a cumulative property tax millage rate legally levied by or on behalf of all taxing entities within which the subject property is to be located that is applicable during the period beginning on the thirtieth day of June preceding the calendar year in which the millage rate agreement is executed and ending on the date the initial lease agreement is executed.

For purposes of industrial development projects requiring a fee in lieu of property taxes, the bill adds definitions for "*investor*," "*investor affiliate*," and "*business*;" includes guidelines for qualification for the four percent fee for investors and investor affiliates; provides time periods for executing the millage rate agreement and for computation of the applicable cumulative property tax millage; and provides for alternative determination of the millage rate.

The bill also amends current provisions relating to the establishment of the millage rate for purposes of determining the fee pursuant to the Fee in Lieu of Tax Simplification Act by providing guidelines for investors and investor affiliates and their qualification for the four percent fee; providing time periods for executing the millage rate agreement and for computation of the applicable cumulative property tax millage; and providing for alternative determination of the millage rate.

H.3994 GASOLINE AND MOTOR FUEL REVENUES Rep. Knotts

This bill repeals, with respect to gasoline and motor fuel taxes paid after June 30, 2001, the provision which requires the annual dedication of \$18 million in gasoline and motor fuel tax revenue to the Economic Development Account.

H.4011 REDEVELOPMENT PROJECTS/PLANS Rep. Leach

A "redevelopment project" is defined in the *South Carolina Code of Laws* as any buildings, improvements, including street improvements, water, sewer and storm drainage facilities, parking facilities, and recreational facilities. This bill authorizes a redevelopment to be located outside of the redevelopment area if a municipality makes specific findings of benefit to the redevelopment project area. The bill also amends current provisions regarding the adoption of an ordinance by a municipality providing for the approval of a redevelopment plan by lengthening from five years to ten years the period within which a municipality may issue the initial obligations to finance a redevelopment project. The bill further provides that obligations may be issued subsequent to the initial ten-year period. The bill also provides that if a redevelopment project or portion of it is to be located outside of the redevelopment project area, the municipality shall by resolution make a specific finding of benefit to the redevelopment project area and provide written notice to the affected taxing district, and no further action is required of the municipality.

H.4024 LOCAL OPTION GAS AND MOTOR FUELS TAX Rep. Gilham

This bill authorizes a county by referendum to impose for a specified time period, a gasoline and motor fuels tax at a rate not to exceed five cents a gallon, with all the revenues from the tax to be used for road construction and road maintenance in the county.

H.4027 USE TAX EXEMPTION Rep. Easterday

This bill provides an exemption from the use tax for a total of ten thousand dollars of sales price in a calendar year for otherwise taxable sales to an individual for personal use and not including any item for consumption or use in a trade or business.

H.4035 FUNDS FOR COUNTY VETERANS AFFAIRS OFFICES Rep. J. Brown

This bill provides that the General Assembly shall appropriate funds directly to the county veterans affairs offices in a manner to be provided in the general appropriations act.

Legislative Update, May 1, 2001

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.net>) and click on the "Insider's Page," then click on "Legislative Update." This will list all of the *Legislative Updates* by date. Click on the date you need.

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